

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O. O. C. J.

WRIT PETITION NO.1953 OF 2006

Shantibhai Dodiya & Ors.

...Petitioners.

Vs.

The State of Maharashtra & Ors.

...Respondents.

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Mr. K.K. Malpathak with Mr. I. G. Buddhadev for the Petitioners.

Mr. Pradeep Jadhav, AGP for Respondent Nos.1 and 3.

Mr. R. A. Thorat for Respondent No.4.

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CORAM : DR.D.Y.CHANDRACHUD, J.

August 14, 2006.

P.C.

Rule, by consent of Counsel returnable forthwith.

Counsel appearing on behalf of the Respondents waive service.

By consent of Counsel and at their request taken up for hearing and final disposal.

2. This petition is directed against an order passed by the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Tribunal, Mumbai, on 29th April 2004. By the order that is impugned in these proceedings, the Tribunal set aside a declaration dated 12th December 1986, which was published on

22nd January 1987 in the Government Gazette, by which an area admeasuring 3,500 sq.ft. comprised in Survey No. 282 (part) known as “Saravati Ramanand Yadav Chawl” situated at village Kurar, Malad (East), Mumbai-400 067 was notified as a slum. The Petitioners are tenants and occupants of five rooms situated in the Chawl. There are at present, it has been stated, 31 rooms in the Chawl.

3. At the present stage, it is not necessary to go into the merits of the rival contentions between the parties. Section 4(4) of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971, provides that when an appeal is preferred under Sub-section (3) against the declaration of an area as a slum area, a public notice shall be published in a newspaper circulating in the local area in which the slum area is situated and at a conspicuous place in the slum area calling upon the residents of the slum area to file their objection. The attention of the Court has been drawn to the panchanama dated 16th February 2004 in which there is a reference of CTS No.282 (part). The land in question is Survey No.282 (part). The grievance of the Petitioners is that there was no proper publication at all in respect of the

property in question. The correct description was Survey No.282 (part) and not CTS No.282 (part). In fact, it would appear that after the initial order of the Tribunal, a further order dated 5th February 2004 was passed by the Tribunal correcting the description of the suit property in the original order. Be that as it may, I am of the view that the ends of justice do require that the residents should be heard since they are vitally affected by the order of the Tribunal setting aside the declaration of the area as a slum area particularly after a lapse of eighteen years. I am not satisfied that the declaration was duly and properly published in the present case. Having regard to the facts and circumstances of the case, the impugned order of the Tribunal dated 29th April 2004 is quashed and set aside. However, no opinion has been expressed by this Court on the merits of the rival contentions of the parties. The Petitioners shall be impleaded as parties to the appeal before the Tribunal and the Tribunal shall dispose of the appeal after hearing all the parties. The petition is accordingly disposed of.

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